

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

This matter is before the court on Carlos Demond Robinson's ("Robinson") motion for a new trial on the basis of newly-discovered evidence pursuant to Rule 33 of the Federal Rules of Criminal Procedure.

A motion pursuant to Rule 33 of the Federal Rules of Criminal Procedure for a new trial on the basis of newly-discovered evidence “must be filed within 3 years after the verdict or finding of guilty.” Fed. R. Crim. P. 33(b)(1). However, “[i]f an appeal is pending, the court may not grant a motion for a new trial until the appellate court remands the case.” Id. Robinson appealed his conviction and sentence on December 28, 2004, and his case is currently pending before the United States Court of Appeals for the Fourth Circuit. Therefore, Robinson’s motion for a new trial is untimely.

It is therefore

ORDERED that Robinson's motion for a new trial is dismissed without prejudice.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
October 25, 2006

NOTICE OF RIGHT TO APPEAL

Defendant is hereby notified that he has the right to appeal this order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.